



SENATE OF THE FEDERAL REPUBLIC OF NIGERIA

VOTES AND PROCEEDINGS

Thursday, 13 March, 2008

1. The Senate met at 10.05 a.m. The Deputy Senate President read prayers.
2. **Votes and Proceedings:**
The Deputy Senate President announced that he had examined the Votes and Proceedings of Wednesday, 12th March, 2008 and approved same.

By unanimous consent, the Votes and Proceedings were approved.
3. **Announcement:**
The Deputy Senate President acknowledged the presence of the Association of Political Science Students, Benue State University, Makurdi in the Gallery to observe Senate proceedings.
4. **Matter of Urgent Public Importance:**
Rising on Rule 42(1) and (2), Senator Ayodele S. Arise drew the attention of the Senate to the victories of Samuel Peters and Olusoji Fasuba at recent sporting events. He sought the leave of the Senate to present a Motion on the matter.

Question put and agreed to.

Matter to stand over to the next legislative day.
5. **Motion:**
Withholding of the sum of N9, 398,603,500.21 Due to the National Emergency Management Agency (NEMA) by the Federal Government Between 2003 - 2007:

Consideration of matter deferred to another legislative day.
6. **Committee on Petroleum Resources (Upstream):**
Report on the Nigerian Oil and Gas Industry Content Development Bill 2008 (SB. 81):
Motion made and Question Proposed: That the Senate do consider the Report of the Committee on Petroleum Resources (Upstream) on the Nigerian Oil and Gas Industry Content Development Bill 2008 (Laid on Tuesday, 11th March, 2008) (Senator Lee L. Maeba).

Question put and agreed to.

Report presented and Laid.

Motion made and Question Proposed: That the Senate do resolve into the Committee of the Whole to consider the Report (*Senate Majority Leader*).

Question put and agreed to.

(SENATE IN THE COMMITTEE OF THE WHOLE) A BILL FOR AN ACT TO

PROVIDE FOR THE DEVELOPMENT OF NIGERIA CONTENT IN THE NIGERIAN OIL

AND GAS INDUSTRY; FOR NIGERIAN CONTENT PLAN; FOR SUPERVISION, COORDINATION, MONITORING AND IMPLEMENTATION OF NIGERIAN CONTENT AND FOR MATTERS INCIDENTAL THERETO.

Clause 1: Application of the Bill:

Notwithstanding anything to the contrary contained in the Petroleum Act or in any other enactment or law, the provisions of this Act shall apply to all matters pertaining to Nigerian Content in respect of all operations or transactions carried out in or connected with the Nigerian oil and gas Industry.

Committee's Recommendation:

That the provision in Clause 1 be retained (*Senator Lee L. Maeba*) — *Agreed to.*

Question that Clause 1 do stand part of the Bill, put and agreed to.

Clause 2: Nigerian Content as Management Philosophy for Project Execution:

All regulatory authorities, operators, contractors, subcontractors, alliance partners and other entities involved in any project, operation, activity or transaction in the upstream sector of the Nigeria oil and gas industry shall regard the Nigerian Content as **an** important element of their overall project development and management philosophy for project execution.

Committee's Recommendation:

Leave out the provision in Clause 2 and *insert* the following instead thereof:

"All regulatory authorities, operators, contractors, subcontractors, alliance partners and other entities involved in any project, operation, activity or transaction in the Nigerian oil and gas industry shall consider Nigerian content as an important element of their overall project development and management philosophy for project execution" (*Senator Lee L. Maeba*) — *Agreed to.*

Question that Clause 2 do stand part of the Bill, put and agreed to.

Clause 3: First Consideration in all Operations and Contracts:

- (1) Nigerian indigenous companies and Nigerian independent operators shall be given first consideration in the award of oil blocks, oilfield licences, oil lifting licences and in all projects for which contract is to be awarded in the Nigerian oil and gas Industry.
- (2) Compliance with the provisions of this Act and promotion of Nigerian content development shall be one of the criteria for award of licences, permits and any other interest in bidding for oil exploration, production and development or any other operations in Nigerian petroleum industry.

Committee's Recommendation:

Leave out the provision in Clause 3 and *insert* the following instead thereof: "(1)

Nigerian independent operators shall be given first consideration in the award of oil blocks, oil field licenses, oil lifting licenses and in all projects for which contract is to be awarded in the Nigerian oil and gas industry subject to the fulfillment of such conditions as may be specified by the Minister.

- (2) Compliance with the provisions of this Act and promotion of Nigerian content development shall be a major criterion for award of licenses, permits and any other interest in bidding for oil exploration, production and development or any other operations in Nigerian oil and gas industry" (*Senator Lee L. Maeba*) — *Agreed to.*

Question that Clause 3 do stand part of the Bill, put and agreed to.

Clause 4: Role of Nigerian Content Monitoring Board:

The Nigeria Content Monitoring Board (the "Board") established in accordance with this Act shall make procedure guides and monitor, coordinate and implement the provisions of this Act.

Committee's Recommendation:

That the provision in Clause 4 be retained (*Senator Lee L. Maeba*) - *Agreed to.*

Question that Clause 4 do stand part of the Bill, put and agreed to.

Clause 5: Promotion of Measurable Growth of Nigerian Content:

The Board shall implement the provisions of this Act with a view to ensuring a measurable and continuous growth in Nigerian content in all petroleum arrangements, projects, operations, activities or transactions in the upstream sector of the Nigeria oil and gas industry.

Committee's Recommendation:

Leave out the provision in Clause 5 and **insert** the following instead thereof:

"The Board shall implement the provisions of this Act with a view to ensuring a measurable and continuous growth in Nigerian content in all oil and gas arrangements, projects, operations, activities or transactions in the Nigerian oil and gas industry" (*Senator Lee L. Maeba*) — *Agreed to.*

Question that Clause 5 do stand part of the Bill, put and agreed to.

Clause 6: Conformity of Petroleum Arrangements and other Agreements:

Not later than three months after **the** commencement of this Act, all petroleum arrangements, agreements, contracts or memorandums of understanding relating to all operations in the Nigerian oil and gas industry shall be modified to bring the terms into conformity with the provisions of this Act.

Committee's Recommendation:

Leave out the provision in Clause 6 and **insert** the following instead thereof:

"Upon the commencement of this Act, all subsequent oil and gas arrangements, agreements, contracts or memorandums of understanding relating to any operation or transaction in the Nigerian oil and gas industry shall be in conformity with the provisions of this Act" (*Senator Lee L. Maeba*).

Amendment Proposed:

Leave out the word "memorandums" in line 2, and **insert** the word "memoranda" instead thereof (*Senator Joseph Akaagerger*).

Question that the amendment be made, put and agreed to.

Question that Clause 6 as amended do stand part of the Bill, put and agreed to.

Clause 7: Submission of Nigerian Content Plan for all Projects:

In the bidding for any licence, permit or interest and before carrying out any project in the Nigerian Petroleum Industry (industry), an operator shall submit a Nigeria Content Plan (Plan) to the Board.

Committee's Recommendation:

Leave out the provision in Clause 7 and **insert** the following instead thereof:

"In the bidding for any license, permit or interest and before carrying out any project in the Nigerian oil and gas industry, an operator shall submit a Nigerian Content Plan ("plan") to the Board demonstrating compliance with the Nigerian Content requirements of this Act" (*Senator Lee L. Maeba*) — *Agreed to.*

Question that Clause 7 do stand part of the Bill, put and agreed to.

Clause 8: Certificate of Authorization:

The Board shall review and assess the plan and if satisfied that the plan complies with the provisions of this Act, issue a Certificate of Authorization (Certificate) to the operator for that project.

Committee's Recommendation:

That the provision in Clause 8 be retained (*Senator Lee L. Maeba*) — *Agreed to.*

Question that Clause 8 do stand part of the Bill, put and agreed to.

Clause 9: Condition for issuance of Certificate of Authorization:

The Board shall not issue such Certificate without first assessing the operator's Nigeria Content Plan except with the consent of the President or the Minister of Petroleum Resources.

Committee's Recommendation:

Leave out the provision in Clause 9 and *insert* the following instead thereof:

"The Board shall review and assess the plan and if satisfied that the plan complies with the provisions of this Act, issue a Certificate of Compliance ("Certificate") to the operator for that project" (*Senator Lee L. Maeba*).

Amendment Proposed:

Leave out the provision in Clause 9 (*Senator Abubakar D. Sodangi*).

Question that the amendment be made, put and agreed to.

Clause 10: Public Review of Plan:

For purposes of reviewing the plan, the Board may conduct a public review in relation to the exercise of any of its duties where the Board is of the opinion that it is in the public interest to do so.

Committee's Recommendation:

Leave out the provision in Clause 10 and *insert* the following instead thereof:

"For purposes of reviewing the plan, the Board may conduct a public review in relation to the exercise of any of its functions under his Act where the Board is of the opinion that it is in the public interest to do so" (*Senator Lee L. Maeba*).

Amendment Proposed:

Leave out the word "his" in line 2, and *insert* the word "this" instead thereof (*Senator Mohammed K. Jibril*).

Question that the amendment be made, put and agreed to.

Question that Clause 10 as amended do stand part of the Bill, put and agreed to.

Clause 11: Contents of Operator's Nigeria Content Plan:

A Nigerian content plan shall contain provisions intended to ensure that:

- (a) First consideration shall be given to services provided from within Nigeria and to goods manufactured in Nigeria.

Committee's Recommendation:

Leave out the provision in Sub-Clause 11 (b):

- (b) Before carrying out any work or activity in Nigeria, the operator or other body submitting the plan shall establish in the area where the project is to be located an office where appropriate levels of decision-making are to take place (*Senator Lee L. Maeba*) — *Agreed to.*

- (c) Consistent with the foregoing, Nigerians shall be given first consideration for training and employment in the work program for which the Plan was submitted and any collective agreement entered into by the operator or other body submitting the Plan and an organization of employees respecting terms and conditions of employment in the project shall contain provisions consistent with this section (*Senator Lee L. Maeba*) — *Agreed to.*

Question that Clause 11 do stand part of the Bill, put and agreed to.

Clause 12: Minimum and Specification of Nigerian Content:

- (1) As from the commencement of this Act, the minimum Nigerian content in any project to be executed in the Nigerian oil and gas industry shall not be below fifty (50) per cent.
- (2) All operators, alliance partners and contractors shall comply with the minimum Nigerian content for particular service or product specification set out in Schedule A to this Act.

Committee's Recommendation:

Leave out the provision in Clause 12 and *insert* the following instead thereof:

- "(1) As from the commencement of this Act, the minimum Nigerian content in any project to be executed in the Nigerian oil and gas industry shall be consistent with the level set in Schedule A to this Act.
- (2) Where a project description is not specified in Schedule A to this Act, the board shall set the minimum content level for that project or project item, pending the inclusion of the minimum content level for that project or project item through amendment of Schedule A by the National Assembly.
- (3) All operators, alliance partners and contractors shall comply with the minimum Nigerian content for particular project item, service or product specification set out in Schedule A to this Act" (*Senator Lee L. Maeba*) — *Agreed to.*

Question that Clause 12 do stand part of the Bill, put and agreed to.

Clause 13: First Consideration For Nigerian Goods and Services:

Subject to section 7 of this Act, the Nigerian Content Plan submitted to the Board by an operator shall contain a detailed plan, satisfactory to the Board, setting out how the operator and their contractors will give "first consideration" to Nigerian goods and services, including specific examples showing how "first consideration" is considered and assessed by the operator in its evaluation of bids for goods and services required by the project.

Committee's Recommendation:

That the provision in Clause 13 be retained (*Senator Lee L. Maeba*) - *Agreed to.*

Question that Clause 13 do stand part of the Bill, put and agreed to.

Clause 14: Contents of Operator's Nigeria Content Plan:

The Nigerian content Plan submitted to the Board by any operator or alliance partner shall contain detailed plan on how the operator or its alliance partner intend to commence local manufacturing of the imported products and development of the imported services forming the imported component of any project for which the Plan is submitted.

Committee's Recommendation:

Leave out the provision in Clause 14 and *insert* the following instead thereof:

"The Nigerian content plan submitted to the Board by any operator or alliance partner shall contain detailed plan on how the operator or its alliance partner intend to ensure the use of locally manufactured goods where such goods meet the specifications of the industry" (*Senator Lee L. Maeba*) — *Agreed to.*

Question that Clause 14 do stand part of the Bill, put and agreed to.

Clause 15: Nigerian Content in Bid Evaluation:

All operators shall consider Nigerian content when evaluating any bid. Where bids are otherwise equal, the bid containing the highest level of Nigerian content shall be selected.

Committee's Recommendation:

Leave out the provision in Clause 15 and **insert** the following instead thereof:

"All operators shall consider Nigerian content when evaluating any bid; where bids are otherwise equal, the bid containing the highest level of Nigerian content shall be selected" (*Senator Lee L. Maeba*) — Agreed to.

Question that Clause 15 do stand part of the Bill, put and agreed to.

Clause 16: Full and Fair Opportunity for Nigerians:

All operators and alliance partners shall maintain a bidding process for acquiring goods and services which shall give full and fair opportunity to Nigeria indigenous contractors and companies.

Committee's Recommendation:

That the provision in Clause 16 be retained (*Senator Lee L. Maeba*) — Agreed to.

Question that Clause 16 do stand part of the Bill, put and agreed to.

Clause 17: Principle of Bid Evaluation:

The award of contract shall not solely be based on the principle of the lowest bidder; where a Nigerian indigenous company has capacity to execute such job, the company shall not be disqualified exclusively on the basis that it is the lowest financial bidder.

Committee's Recommendation:

Leave out the provision in Clause 17 and **insert** the following instead thereof:

"The award of contract shall not be solely based on the principle of the lowest bidder; where a Nigerian indigenous company has capacity to execute such job, the company shall not be disqualified exclusively on the basis that it is the lowest financial bidder, provided the value does not exceed the lowest bid price by 10 percent" (*Senator Lee L. Maeba*) — Agreed to.

Question that Clause 17 do stand part of the Bill, put and agreed to.

Clause 18: Advise for Nigerian Unsuccessful Bidders:

Where Nigerian indigenous contractors and companies are found to be uncompetitive or fail to qualify initially, the operator or alliance partner shall advise the unsuccessful Nigerian bidders and the Board of deficiencies identified in their bids so that such short-comings may be addressed for future bidding opportunities.

Committee's Recommendation:

Leave out the provision in Clause 18 and **insert** the following instead thereof: "Where Nigerian indigenous contractors and companies are found to be uncompetitive or fail to qualify, the operator or alliance partner shall advise the unsuccessful Nigerian bidders and the Board of deficiencies identified in their bids within 3 months after the bidding" (*Senator Lee L. Maeba*).

Amendment Proposed:

Leave out the provision in Clause 18 (*Senator Victor Ndoma-Egba*)

Question that the amendment be made, put and agreed to.

Clause 19: List of Contracts to be Submitted to the Board:

For all proposed projects, contracts, subcontracts and purchase orders estimated by the operator to be in excess of 31,000,000 (USD), or such other limit as the Board may determine, and for any other matter identified to be of interest to the Board, the operator shall provide to the Board for approval, lists of all contractors that they wish to prequalify, the proposed bidders lists and notices of the proposed final contract awards. The operator shall submit sufficient information with the notifications to enable the Board assess the subject matter and to be satisfied that the requirements for "full and fair opportunity" and "first consideration" have been addressed by the operator.

Committee's Recommendation:

Leave out the provision in Clause 19 and insert the following instead thereof:

"For all proposed projects, contracts, subcontracts and purchase orders estimated by the operator to be in excess of \$1,000,000 (USD), the operator shall provide to the Board for approval, advertisements, prequalification criteria, technical bid documents, technical evaluation criteria and the proposed bidders lists. The operator shall submit sufficient information with the notifications to enable the Board assess the subject matter and to be satisfied that the requirements for Nigerian content have been complied with by the operator" (*Senator Lee L. Maeba*) — *Agreed to.*

Question that Clause 19 do stand part of the Bill, put and agreed to.

Clause 20:**Submission of Job Forecasts, etc, to Board:**

The operators shall submit to the Board, thirty days prior to the first day of each quarter, a listing of all contracts, subcontracts and purchase orders, = \$1,000,000 (USD), which will be bided and or executed in the upcoming quarter. For each contract, subcontract and purchase order, this listing should provide:

- (a) a description of the service(s)/item(s) to be contracted/purchased (material and equipment specifications shall be provided upon request);
- (b) Estimated value of contract, subcontract or purchase order: and,
- (c) Anticipated Request for Proposal (RFP) issuance date, RFP closure date and award date.

Committee's Recommendation: Insert a new Sub-Clause 20 (d) as follows:

"(d) Any other information requested by the Board for purposes of implementing the provisions of this Act" (*Senator Lee L. Maeba*) — *Agreed to.*

Question that Clause 20 do stand part of the Bill, put and agreed to.

Chairman to report progress.

(SENATE IN PLENARY)

The Deputy Senate President reported that the Senate in the Committee of the Whole, considered the Report of the Committee on Petroleum Resources (Upstream) on the Nigerian Oil and Gas Industry Content Development Bill 2008 and approved as follows:.

Clauses 1 — 5	As Recommended
Clause 6	As Amended
Clauses 7 — 8	As Recommended
Clause 9	Deleted
Clause 10	Deleted
Clauses 11 — 17	As Amended
Clause 18	As Recommended
Clause 19	Deleted
Clause 20	As Amended
	As Recommended

Further consideration of the Bill deferred to another legislative day.

7. **A Bill for an Act to Repeal the National Inland Water Ways Authority Act No. 47 2004 and to Re-Enact the National Inland Water Ways Agency to provide for among other things the Regulation, Management, Directions and Control of the Inland Water Ways for Navigation and Provision of River Ports Services and Other Connected Purposes, 2008 (SB. 02):**

Consideration of Bill deferred to another legislative day,

8, **Adjournment:**

Motion made and Question Proposed: That the Senate do adjourn till Tuesday, 18th March, 2008 at 10.00 a.m. (*Senate Majority Leader*).

Adjourned accordingly at 1. 05 p.m.

Ike Ekweremadu, CFR
Deputy President of the Senate